

# Civil action possible against prospective employer

**I left my job in the UAE for a better opportunity with another employer here. I was asked to cancel my visa and wait for a new one. But it has been nearly 40 days now and my new employer is not responding about my visa. Can I file a complaint against the new employer?**

You resigned from your previous employment after you received another offer, but your prospective employer has not started any proceedings on securing a visa for you and he is not responding in any manner.

As of now, there is no employment relation between you and your prospective employer. Therefore, the Ministry of Labour shall not have the appropriate jurisdiction in the matter. Under such circumstances, you may continue to follow up with the employer for information and updates on your visa.

If you find that the prospective employer is not responding to your queries within a reasonable period of time, you may consider civil action, claiming compensation in view of the fact that the employer induced you into leaving your job by promising a new one and then failing to fulfil his obligations. The compensation may be claimed for loss of employment and monetary benefits, mental harassment and also for breach of contract, should you have an offer letter signed by the employer.

You should have sufficient proof to support your claims at the court of competent jurisdiction. Letters and email communication from the prospective employer may carry weight.

It is advisable that you appoint a legal practitioner in the UAE to provide you with help in this regard.

**How the job ban works**  
I am employed in a mobile shop on a limited contract visa. I am on six months' probation. I



**LEGAL VIEW**  
ASHISH MEHTA

don't like the work environment here. Also, I am made to work for more than 10 hours each day, even on Fridays. When I told the owner I wanted to resign, he asked me to pay him Dh8,000 for the visa expenses he had incurred. But my contract doesn't say that I have to pay him for my visa expenses. Can I leave the job? Will I still have to pay him Dh8,000 as demanded? Will I be banned from working in the UAE? My visa gives my profession as a sales person though I am an electronics engineer with a B. Tech degree.

Your employer is not entitled to receive from you any amount of money for the visa cost incurred if you wish to leave, whether during probation or after completing it.

But since you wish to leave the employment of your own accord, you shall be required to compensate your employer for the prejudice that the employer may suffer. However, such compensation shall not be more than 45 days of your salary. This is in accordance with Article 116 of the Labour Law.

It says:

"Where a contract is revoked for reasons other than those specified (in Article 121), the employee

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shall be required to compensate the employer for any prejudice the latter sustains as a result: provided that the amount of compensation shall not exceed half the worker's remuneration for three months or the residual period of the contract, whichever is shorter, unless the contract contains a provision to the contrary.

Further, the Labour Law recognises that certain professionals shall be free to change their employment at any point of time. This is in accordance with Article 2 of the Ministerial Order No (13) of 1991 on the organisation of the transfer of sponsorships of non-national labours. The rules governing it state:

"Non-national labourers may be allowed to transfer one job to another and hence transfer of their sponsorship if they fall under the following categories:

- a) Engineers
- b) Doctors, pharmacists and male and female nurses
- c) Agricultural guides
- d) Qualified accountants and account auditors
- e) Qualified administrative officials
- f) Technicians operating on electronic equipment and (in) laboratories

g) Drivers who are licensed to drive heavy vehicles and "buses" (in case of transfer of sponsorship from a private firm to another or from a private firm to another or to a government department)."

However, you are working as sales professional. You have not mentioned if you had duly legalised your B. Tech degree. In view of this, you may face a labour ban should you leave your employment before its conclusion and try to join another organisation.

In the event you do face a labour ban, it may be lifted if your next employment pays you the prescribed salary in accordance with your qualifications. This is in accordance with the provisions of Article (4) of the Ministerial Order No 1186 of 2010:

"As an exception to the provision of Item No (2) of Article 2 of this Resolution, the Ministry may issue a work permit to an employee without requiring the two year period:

In the event that the employee is starting his new position at the first, second or third professional levels after fulfilling the conditions for joining any of these levels according to the rules in force at the Ministry, and provided that his new wage is not less than (12) thousand dirham at the first professional level, (seven) thousand dirham at the second professional level and (five) thousand dirham at the third professional level ..."

*Ashish Mehta, LLB, F.I.C.A., M.C.I.T., M.C.I.Arb., is the founder and Managing Partner of Ashish Mehta & Associates. He is qualified to practise law in Dubai, the United Kingdom, Singapore and India. He manages a multi-jurisdictional law firm practice, providing analysis and counselling on complex legal documents, and policies including but not limited to corporate matters, commercial transactions, banking and finance, property and construction, real estates acquisitions, mergers and acquisitions, financial restructuring, arbitration and mediation, family matters, general crime and litigation issues. Visit [www.amalawyers.com](http://www.amalawyers.com) for further information. Readers may e-mail their questions to: [news@khaleejtimes.com](mailto:news@khaleejtimes.com) or send them to Legal View, Khaleej Times, PO Box 11243, Dubai.*